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Item 10 (a) of the provisional agenda

THE ADMINISTRATION OF JUSTICE AND THE HUMAN RIGHTS OF DETAINEES

QUESTION OF HUMAN RIGHTS OF PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT

Synopsis of material received from non-governmental organizations in consultative status with ECOSOC

Note by the Secretary-General

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INTRODUCTION

1. The present synopsis of material received from non-governmental organizations on the question of human rights of persons subjected to any form of detention or imprisonment has been prepared by the Secretary-General pursuant to resolutions 7 (XXVII) of 20 August 1974, 4 (XXVIII) of 10 September 1975 and subsequent resolutions adopted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities concerning its annual review of developments in this field.

2. The present synopsis is the fourteenth to have been prepared by the Secretary-General. It is similar in outline to the previous synopsis, and gives due regard to the types of problems referred to in paragraph 16 (b) of Sub-Commission resolution 1982/10. Former reports were issued in documents: E/CN.4/Sub.2/1990/22, E/CN.4/Sub.2/1989/22, E/CN.4/Sub.2/1988/15, E/CN.4/Sub.4/1987/13, E/CN.4/Sub.4/1985/13, E/CN.4/1984/13, E/CN.4/Sub.2/1983/13, E/CN.4/Sub.2/1982/14, E/CN.4/Sub.2/471, E/CN.4/Sub.2/445, E/CN.4/Sub.2/431, E/CN.4/Sub.2/408, E/CN.4/Sub.2/394 and E/CN.4/Sub.2/L.643.

3. At 15 July 1991 the following non-governmental organizations had submitted material: International Commission of Jurists, International Defence and Aid Fund for Southern Africa, the International Federation of ACAT, the International Federation of Journalists, the Friends World Committee for Consultation (Quakers), and the World Muslim Congress.

4. Amnesty International stated that although it had submitted information under this resolution in past years, it felt that the usefulness of its information was considerably reduced as a result of the fact that specific countries were not identified and that, therefore, it would no longer submit information.

5. The present report indicates the main features which appear to emerge from the replies as a whole. The material submitted by the non-governmental organizations is available for consultation at the Centre for Human Rights.

I. CONDITIONS OF DETENTION OR IMPRISONMENT

6. One organization reported recent controversial changes affecting the treatment of prisoners in one country. These changes, introduced in 1989, include the abolition of remissions, longer hours of "lock-up" in cells, overcrowding, cuts in education programmes, and the removal of special programmes for women.

7. In the same country in 1990, a new measure was introduced to remove personal possessions of prisoners. This was said to be for the purpose of making it easier for prison officers to search for syringes and to eliminate trading in goods by prisoners. However, a wide range of personal articles was withdrawn and many thought the measure was an unnecessary overreaction as well as a denial of prisoners' rights.

8. An organization in this country has expressed concern that prisoners are kept in their cells for up to 22 hours per day. In most cases, there are two or three to a cell. This is thought by medical professionals to affect adversely the prospects of reform.

9. Another organization has expressed concern about the treatment of prisoners in a second country where severe overcrowding in prisons, and inadequate clothing and bathing and lavatory facilities contribute to a system which demeans the person and erodes his autonomy.

10. A third organization describes detention/interrogation centres in another country as "nauseating", with a "repelling socio-psychological environment". Inmates are deprived even of the barest minimum necessities of life (rest, food, water). In addition, rarely is anyone allowed in to see them, despite court orders.

II. TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

11. One organization reports that in one country almost everyone apprehended by "security" forces is tortured. This organization notes that torture takes place in various places, including homes, streets, and fields, not only prisons.

12. This organization reports that on 19 November 1990, troops burst into a hospital during a night curfew, demanding to know if the doctors were treating any "terrorists". The radiologist was allegedly beaten and another laboratory technician was tied from the ceiling.

13. The same organization reports that children are subjected to torture as well. Often, if they are not held on personal counts, they are used as hostages. They are allegedly treated as adults, and tortured in the same manner.

III. DEATH DURING DETENTION

14. According to one organization many people have died as a result of severe injuries sustained at interrogation and/or detention centres in one country.

15. On 20 May 1990, a man was arrested by an artillery brigade and taken to an army camp. His bruise-covered body was brought to a district hospital, where a post-mortem revealed that death had been due to a head injury.

16. Another man was taken by the brigade on 22 May 1990. His body was found in a village with several bullet wounds, marks of multiple injuries and one eye missing.

IV. DISAPPEARANCES

17. One organization states that in a particular country there are numerous cases of "disappearance", in which no trace of persons arrested is found.

18. On 10 May 1990, the army entered a village in this country and took away a 16-year-old boy. He has not returned, and his mother has no idea where he is being held.

19. On the same day in a different village, the army took three boys during military operations. Two have been released but there has been no news of the third.

20. A 21-year-old man was taken on 21 May 1990. Despite repeated requests, his family has received no information to date as to his whereabouts or reasons for his arrest.

21. Another organization states that a lawyer who was also the vice-president of a Human Rights Committee in one country was detained on 27 February 1990, allegedly by members of the security forces. The security forces have denied having detained this person and his whereabouts are unknown.

V. ARREST AND DETENTION WITHOUT GROUNDS OR ON ILL-DEFINED OR DUBIOUS GROUNDS

22. One organization relates that many habeas corpus petitions are pending before the courts in one country. Although permission has been obtained by the parties and their counsels to seek interviews with detainees, the State authorities have allegedly refused to comply.

23. This organization cites petition 101 of 1989 in which the detention of a certain prisoner was called into question. On 25 April 1990 the court ordered the prisoner's release, and a court order was accordingly served to the Superintendent of the jail where the detainee had been lodged at the time of his apprehension. However, the detainee had meanwhile (on 12 April 1990) allegedly been transferred to a different jail, thereby nullifying the court order. The court order has since been communicated to the authorities concerned, but the detainee remains in detention.

24. Another organization reports that, in one country, of approximately 1,830 people known to have been in prison as political prisoners on 2 February 1990, only 360 are known to have been released early. Since February 1990, at least another 63 people have been imprisoned in this country as a result of political trials.

VI. DETENTION OR ILL-TREATMENT OF MEMBERS OF SPECIFIC GROUPS

Jurists

25. One organization reports on the cases of 167 jurists detained between July 1989 and June 1990 in reprisal for carrying out their professional duties. For instance, in one country, an attorney was detained by the National Guard when he appeared at Guard headquarters as attorney representing detained foreign workers. He was held for ten days, interrogated, kicked and threatened. In the same country, a law student at the National University was detained by plain clothes individuals after having visited a prison. He was physically mistreated and accused of being a member of a guerrilla group and of participating in a terrorist attack. He was released on the same day of

his detention after having been photographed and fingerprinted. In another country, two lawyers and a judge were arrested with no specific charges of unlawful activity and detained for two and three weeks respectively, under provisions of the Preventive Custody Law and of the Habeas Corpus Act, which allow those suspected of subversive activity to be held indefinitely, without trial and without the possibility of judicial intervention. They were kept in solitary confinement and subjected to long periods alternately in pitch darkness or in blazing light.

Journalists

26. One organization reported on the cases of 36 journalists who have been submitted to arbitrary detention in five countries in January and February 1991. The same organization reported on the murder of 41 journalists in 18 countries in 1990. In one country, a journalist was detained by the national police force and later died of a heart attack. The police claim that when they picked him up he was drunk, and that he died in an ambulance on his way from the police station to a hospital. His colleagues claim that he was not inebriated and that he died before leaving the police station. In another country, two journalists were detained, beaten, had their equipement and notebooks confiscated and were threatened with death. Journalists in that country describe such treatments as continuous.

VII. COMMENTS AND RECOMMENDATIONS ON NATIONAL AND INTERNATIONAL MEASURES FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS OF PERSONS SUBJECTED TO DETENTION OR IMPRISONMENT

27. One organization mentioned that the activity in this field of the Council of Europe has obliged certain countries to create legislation using present-day standards, especially with reference to the time and length of imprisonment.

28. Another organization considers it particularly disturbing that so few of the cases of violent attacks on lawyers have been investigated by the competent authorities, and that so few of those guilty are brought to justice. In some countries, the failure to pursue criminals vigorously has led to situations of de facto impunity resulting in climates that encourage further killings. Therefore, this organization urges Governments to comply with the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions (adopted by the Economic and Social Council in its resolution 1989/65 of 24 May 1989). This document calls for an investigation of all suspected cases of summary execution, as well as the prosecution of all persons identified in the investigation as having taken part in such killings.

29. One organization encouraged full implementation of minimum standards for the treatment of prisoners, and remarked that other factors, such as the need of prisoners to belong to a community, the opportunity to contribute to it and the exercise of personal responsibility, might enrich the lives of prisoners as well as staff.

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THE ADMINISTRATION OF JUSTICE AND THE HUMAN RIGHTS OF DETAINEES

QUESTION OF THE HUMAN RIGHTS OF PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT

Succint information on developments in the human rights programme and on the activities within the United Nations programme on crime prevention and control as they relate to the question of human rights of persons subjected to any form of detention or imprisonment

Report of the Secretary-General

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INTRODUCTION

1. In its resolution 1988/33 of 8 March 1988, entitled "Human rights in the administration of justice", paragraph 6, the Commission on Human Rights reminded the Sub-Commission of its request (resolution 1987/33) when carrying out its annual review of the human rights of persons subjected to any form of cooperation among developing countries in its consideration the work of the Human Rights Committee and the Committee on the Elimination of Racial Discrimination, the developments elsewhere in the human rights programme and the activities within the United Nations programme on crime prevention and control bearing upon the subject. It also requested the Secretary-General to continue making available to the Subcommission succint information on these matters.

2. The present report is the fifth to have been prepared by the Secretary-General. It includes information on the work of the Human Rights Committee, the Committee on the Elimination of Racial Discrimination and the Committee on the Exercise of the Inalienable Rights of the Palestinian People as well as on the activities within the United Nations crime prevention and criminal justice programme.

3. Previous reports are contained in documents E/CN.4/Sub.2/1987/14, E/CN.4/Sub.2/1988/16, E/CN.4/Sub.2/1989/23 and E/CN.4/Sub.2/1990/23.

I. WORK OF THE HUMAN RIGHTS COMMITTEE

4. During the course of its fortieth and forty-first sessions held, respectively, from 22 October to 9 November 1990 and from 25 March to 12 April 1991, the Committee considered reports relating to the implementation of the International Covenant on Civil and Political Rights from 10 States. The question of the human rights of persons subjected to any form of detention and imprisonment was among the matters reviewed by the Committee during the consideration of each of these reports. The relevant discussions are reflected in summary records CCPR/C/SR.1010-1016, SR.1018-1020, 1028, 1029, 1031, 1032-1035, 1039-1054 and SR.1057-1060.

II. WORK OF THE COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

5. During its thirty-ninth session held from 4 to 22 March 1991, the Committee considered reports from 11 countries and generally addressed the question of the human rights of persons subjected to any form of detention or imprisonment in the course of reviewing the implementation by States parties of article 5 of the Convention on the Elimination of All Forms of Racial Discrimination. The relevant summary records are CERD/C/SR.890, SR.892-897, SR.901-902, and SR.905-908.

III. ACTIVITIES OF THE COMMITTEE ON THE EXERCISE OF THE INALIENABLE RIGHTS OF THE PALESTINIAN PEOPLE

6. The Committee on the Exercise of the Inalienable Rights of the Palestinian People has repeatedly expressed concern at the arbitrary detention of Palestinians in the occupied territory and at their systematic ill-treatment by the Israeli authorities. Following are excerpts from the annual report of the Committee to the General Assembly at its forty-fifth session.

7. The Committee, with the assistance of the Division for Palestinian Rights, continued to monitor the situation in the occupied Palestinian territory on an ongoing basis through the media, the reports of United Nations organs and agencies, and information collected by Governments, non-governmental organizations, individual experts and persons from Israel and the occupied Palestinian territory who participated in meetings held under the auspices of the Committee and other sources.

8. The Committee noted that the intifada, the uprising of the Palestinian people for the termination of the Israeli occupation and for the achievement of its national rights in the Palestinian territory occupied since 1967, including Jerusalem, had entered its third year despite continued violent repression and great economic hardships.

9. The Committee noted with deep concern that in its efforts to suppress the intifada, Israel had continued to resort to the use of often excessive and indiscriminate force, including shooting at demonstrators, intensive use of tear-gas and severely beating detainees. Fear was expressed that the Israeli Government was condoning and even encouraging extrajudicial executions of Palestinians as a means of controlling the intifada through permissive guidelines on the use of firearms and the inadequate investigation of abuses.

10. As at 31 August 1990, according to the DataBase Project on Palestinian Human Rights, the total number of Palestinians killed since the beginning of the intifada through direct responsibility of the Israeli forces, armed settlers, civilians and collaborators, was 856 identified cases. Of those, 704 had died from gunfire, 63 from beatings and other actions, and 89 in tear-gas related incidents. Another 104 Palestinians had died under suspicious circumstances. In addition, it was estimated that 99,150 Palestinians had been injured. The Committee noted with indignation that Israeli forces had indiscriminately used firearms against Palestinians in the precinct of Al Haram Al Shareef, in Jerusalem, on 8 October 1990, which resulted in the death of over 20 Palestinians and the wounding of over 125 others, as well as the ensuing intensified repression of Palestinians throughout the occupied territory, which caused additional casualties.

11. An alarming and rapid deterioration of the situation of children was noted. The casualty toll among children was extremely high: 217 children under 16, or about 25 per cent of the total number of victims, were killed in the intifada. All children were being subjected to a range of punishing collective measures, and families were reported to be experiencing grave difficulties in fulfilling primary functions of child protection and care.

12. The Committee noted that Israeli occupation authorities continued to resort to a variety of harsh measures and collective punishment in their efforts to suppress the intifada and considered it a serious violation of the relevant principles and provisions of international law. Those measures included deportations, large-scale arrests, detentions, raids on homes and villages, prolonged curfews, confiscation of property and destruction of trees and crops. It was reported that over 13,000 Palestinians remained in prisons or detention centres at the end of 1989, and there were numerous allegations of torture and systematic ill-treatment of political detainees. The DataBase Project reported that, since the beginning of the intifada, and until 31 August 1990, a total of 10,200 Palestinians had been in administrative detention without charges or trial for varying periods. The West Bank and Gaza had experienced a total of 7,755 days of curfews, affecting hundreds of thousands of Palestinians. A total of 1,557 houses and other structures had been demolished or sealed during the intifada, about one fifth of them for "security" reasons. The Committee was particularly concerned at the lawless and violent actions of Israeli settlers, in violation of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, including attacks on individuals, raids on Palestinian villages and neighbourhoods, vandalism, confiscation of property, the desecration of Muslim religious sites, and activities against Christian religious property.

13. The Committee noted with satisfaction that the Secretary-General had repeatedly expressed concern at the situation in the occupied Palestinian territory and had sent his personal representative to the area in June 1990. In his initial report to the Secretary-General, the personal representative had conveyed the fears expressed by Palestinians throughout the occupied territory and their profound feelings of vulnerability resulting from lack of protection as well as the need to ensure their basic economic and human rights.

14. Taking into account the continuing intolerable situation in the occupied Palestinian territory, the Committee wishes to urgently draw once again the most urgent attention of the General Assembly and the Security Council to the policies and practices of Israel, the occupying Power, which are in violation of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949. The Committee reiterates its most urgent appeal to the Security Council, to the High Contracting Parties to the fourth Geneva Convention and to all concerned to take all necessary measures to ensure the safety and international protection of the Palestinians in the occupied Palestinian territory pending the withdrawal of Israeli forces and the achievement of a just settlement.

IV. ACTIVITIES WITHIN THE UNITED NATIONS CRIME PREVENTION AND CRIMINAL JUSTICE PROGRAMME

A. Intensified collaboration with the human rights programme

15. In order to enhance effectiveness of the work, the Centre for Social Development and Humanitarian Affairs continues to maintain close contacts with the Centre for Human Rights in all its activities related to human rights in the administration of justice, in accordance with General Assembly resolutions 40/146, 41/149, 42/143, 43/153, 44/162 and 45/166 and Commission on Human Rights resolutions 1987/33, 1988/33, 1989/24, 1990/81 and 1991/34. For this purpose, focal points have been created and are being further developed within both Centres to monitor the human rights aspects of the administration of justice within the various elements of United Nations programmes in this field, as well as the work of specialized agencies, regional organizations and non-governmental organizations in consultative status, and to provide, as appropriate, advice on coordination and other relevant issues. Particular emphasis is being placed on the following areas: victims of crime and abuse of power; independence of the judiciary; role of lawyers; role of prosecutors; law enforcement, including use of force and firearms by the police; treatment and human rights of prisoners and detainees; capital punishment and extra-legal, arbitrary or summary executions.

16. Collaboration between both programmes is being further strengthened, with special emphasis on the follow-up to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (Havana, Cuba, 1990) and preparations for the twelfth session of the Committee on Crime Prevention and Control in 1992. The General Assembly, in its resolution 45/166, recognized the significant work accomplished in the area of administration of justice and human rights under the United Nations crime prevention and criminal justice programme, especially by the Eighth Congress. Subsequently, the Commission on Human Rights, in its resolution 1991/34, while expressing the need for further intensified cooperation between both Centres regarding human rights in the administration of justice, took note with appreciation of the recommendations made in this area by the Eighth Congress. The Secretary-General was invited to coordinate the relevant activities of the Sub-Commission with those of the Committee on Crime Prevention and Control and requested to invite a representative of CSDHA to interchange ideas with the Working Group on Detention of the Sub-Commission.

B. Technical cooperation and advisory services

17. The need for advisory services continued to experience steady growth as evidenced by the number of requests received and the number of advisory missions undertaken. Between December 1990 and summer of 1991, the Interregional Adviser in Crime Prevention and Criminal Justice visited, inter alia, Botswana, Brazil, Colombia, Costa Rica and Panama. The requests covered areas related to the establishment of national councils for crime prevention and criminal justice, in the context of development issues; training in all sectors of crime prevention and criminal justice; juvenile delinquency prevention; alternatives to imprisonment; prevention of urban criminality; improvements in the capacity of law enforcement agencies,

including the judiciary, especially in order to combat various forms of organized criminality. Criminal justice statistics and legal informatics were also prominent in many requests and specific proposals were formulated to respond to these needs.

18. The implementation of United Nations standards and norms in the area of administration of justice and human rights have been the object of training seminars in a number of missions, including the Standard Minimum Rules for the Treatment of Prisoners, the Standard Minimum Rules for the Administration of Juvenile Justice, the Guidelines for the Prevention of Juvenile Delinquency, the Code of Conduct for Law Enforcement Officials and the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power.

19. Victims support schemes were the subject of advice of various missions, and public lectures were also delivered to agencies of crime prevention and criminal justice and to universities. Many requests involved the need for legal reform in order to improve social equity, especially in the context of social and economic adjustment processes. As results of these consultations, specific project proposals were formulated, covering areas such as street children, juvenile delinquency prevention, criminal justice and development, support for community oriented prevention, prison reform and alternatives to imprisonment, legal reform and the prevention of organized crime.

20. Support through project formulation and advice were provided to the interregional and regional United Nations institutes in crime prevention and criminal justice and those working closely with the United Nations. Visits were undertaken to the United Nations Asia and Far East Institute (UNAFEI) and the Latin American Institute (ILANUD) and continuous consultations with the United Nations African Institute (UNAFRI) were conducted on the planning of its work programme. Specific advice was also provided to the Economic and Special Commission for Western Asia during a field mission and a project on juvenile delinquency prevention was prepared jointly with the Economic Commission for Latin America and the Caribbean.

21. Missions were further undertaken by the Interregional Adviser to the United States, Japan, Italy and Spain, to obtain support for projects in developing countries. Likewise, a visit was undertaken to the World Bank and the United Nations Development Programme, with a view to establishing closer linkages in relation to the need for the improvement of public administration through crime prevention, the fairness of criminal justice and the prevention of corruption.

22. With a view to further strengthening technical cooperation activities with the Centre for Human Rights, collaborative initiatives continued to be developed under the United Nations Human Rights Advisory Programme. For example, UNOV/CSDHA was represented at the third inter-agency meeting on advisory services in the field of human rights (Geneva, 18 April 1991). It also participated in training courses or seminars on human rights and the administration of justice, organized in 1991 by the Human Rights Advisory Programme for public officials from developing countries in San Remo, Italy (11-15 March), Brasilia (17-19 June) and Cairo (8-12 July).

C. Relevant results of the eighth United Nations Crime Congress

1. Review of the crime and justice programme

23. On the recommendation of the Eighth Congress, the General Assembly, in its resolution 45/108, decided to establish an intergovernmental working group, which, on the basis of the report of the Committee on Crime Prevention and Control entitled "The need for the creation of an effective international crime and justice programme" (E/1990/21/Add.1), would produce a report elaborating proposals for an effective crime prevention and criminal justice programme and suggesting how that programme could most appropriately be implemented. Member States were invited to convene an early ministerial meeting to consider the report of the intergovernmental working group and the possible need for a convention or other international instrument to develop the content, structure and dynamics of the crime prevention and criminal justice programme.

24. Subsequently, the Economic and Social Council, in its resolution [1991/C.2/L.3/Rev.1] requested the Assembly to give priority attention to the conclusions and recommendations of the ministerial summit meeting and recommended to the Assembly to consider requesting the Secretary-General to enter into a commitment for the upgrading of the status of the Crime Prevention and Criminal Justice Branch.

25. The above-named intergovernmental working group is scheduled to meet at Vienna from 5 to 9 August 1991. The ministerial meeting would be held at Paris from 21 to 23 November 1991, following the generous invitation of the Government of France. In view of the close inter-linkages between the activities of the human rights programme and the crime prevention and criminal justice programme, it would be essential that the human rights programme would accept the invitations to be represented at both meetings.

2. New standards and model treaties

26. The Congress was the most productive one of all congresses held in this field so far. It unanimously adopted, inter alia, several international instruments related to human rights in the administration of justice as contained in its report (A/CONF.144/28; see also A/45/629).

27. These instruments, which were welcomed by the General Assembly in its resolutions 45/121 and 45/166, had been elaborated by the Committee on Crime Prevention and Control, in pursuance of existing mandates and in close cooperation with the human rights programme, taking into account previous work accomplished in these areas, and the recommendations of the regional and interregional preparatory meetings (A/CONF.144/RPM.1-5). They also take into consideration specific contributions and various inputs received from Governments, specialized agencies, the United Nations institutes in the field of crime prevention and criminal justice, as well as non-governmental organizations in consultative status with the Economic and Social Council, and individual experts.

28. These instruments, described below, set out, on the basis of general consensus, principles accepted by the international community, so that favourable considerations can be given to their use within the framework of national legislation and practice. The Eighth Congress recommended them for national, regional and international action and implementation and called upon the Committee on Crime Prevention and Control to consider their effective implementation as a matter of priority. The Congress also requested the Secretary-General to take appropriate steps to ensure their widest possible dissemination and invited Member States to inform the Secretary-General periodically on the progress achieved in their implementation.

(a) Basic Principles on the Use of Force and Firearms by Law Enforcement Officials

29. These Principles were developed at an Interregional Preparatory Meeting for the Eighth Congress 1/ and the Committee on Crime Prevention and Control 2/ as well as the International Expert Meeting on United Nations and Law Enforcement, held at Baden, Austria. 3/

30. The Principles were formulated with a view to providing more detailed rules on the use of force and firearms, in accordance with article 3 of the Code of Conduct for Law Enforcement Officials. They establish special guidelines focusing on the use of firearms and then set standards for policing unlawful assemblies and persons in custody or detention. Special consideration is further given to the use of force and firearms as a last resort; ethical issues; new technologies for developing non-lethal incapacitating weapons and ammunition for appropriate use; responses by law enforcement officials in proportion to the seriousness of the offence and the legitimate objective to be achieved; qualification and training in the use of force and firearms by law enforcement officials; stress counselling for law enforcement officials required to use force or firearms in the course of their duties; and effective reporting and review procedures.

(b) Basic Principles on the Role of Lawyers

31. These Principles are based on the preparatory work of the Committee on Crime Prevention and Control, in pursuance of Seventh Congress resolution 18. 4/ In accordance with Commission on Human Rights resolution 1989/32, due account had been taken in the elaboration of the Principles of the draft Declaration on the Independence and Impartiality of the Judiciary, Jurors and Assessors and the Independence of Lawyers and studies undertaken by the Sub-Commission. 5/ The International Commission of Jurists and the International Bar Association had also played an important role in the development of these Principles.

32. The Principles may be of particular interest to the Sub-Commission in considering the preliminary report on the right to a fair trial, prepared by two of its members, Mr. Stanislaus Chernichenko and Mr. William Treat, in pursuance of Commission on Human Rights resolution 1991/43 and Sub-Commission resolution 1990/18. The approval of the Principles is limited but well-focused: they contain pragmatic suggestions for the day-to-day operation of the legal profession, with emphasis on criminal justice. Special attention is given to the following issues: effective

access to legal assistance for all groups of society; the right of the accused to counsel and seek legal assistance of their own choice; education of the public on the role of lawyers in protecting fundamental rights and liberties; training and qualifications of lawyers, and the prevention of discrimination with respect to entry into the legal profession; the role of Governments, bar associations and other professional associations of lawyers; the right of lawyers to undertake the representation of clients or cases without fear of repression or persecution; and the respect by Governments for the confidentiality of communications between lawyers and their clients, including the right to refuse to give testimony on such matters. The Principles provide further that lawyers, like other citizens, are entitled to freedom of expression, belief, association and assembly.

33. It may be recalled in this connection that a report in a closely related field was submitted to the Sub-Commission by one of its members, Mr. Louis Joinet from France, which recommended means by which the Sub-Commission could assist in ensuring respect for the independence of the judiciary and the protection of practising lawyers. 6/ Subsequently, the General Assembly, in its resolution 45/166, welcomed the decision of the Sub-Commission, in its resolution 1990/23, to entrust Mr. Joinet with the preparation of a new report on strengthening the independence of the judiciary and the protection of practising lawyers, which is presently before the Sub-Commission. The Basic Principles on the Role of Lawyers, as well as the Basic Principles on the Independence of the Judiciary, previously adopted by the Seventh Congress, may be of particular relevance to this work of the Sub-Commission.

(c) Guidelines on the Role of Prosecutors

34. The Guidelines, prepared in pursuance of Seventh Congress resolution 7, recognize that prosecutors are essential agents of the administration of criminal justice. They are designed to secure and promote the effectiveness, impartiality and fairness of prosecutors in criminal proceedings. Prosecutors shall be made aware of the ideals and ethical duties of their office, the constitutional and statutory protection of the rights of the suspect and the human rights and fundamental freedoms recognized by national and international law.

35. The Guidelines pay special attention to the requirements of fairness, openness, acountability and efficiency in matters relating to prosecution; the qualifications, selection and training of prosecutors; their status and conditions of service; their role in criminal proceedings; their relations with other government agencies or institutions; and disciplinary proceedings. Due regard is also given to the discretionary function vested in prosecutors in some jurisdictions.

(d) Basic Principles on the Treatment of Prisoners

36. These Principles, adopted by the General Assembly in its resolution 45/111, on the recommendation of the Eighth Congress, were elaborated by the Latin American Regional Preparatory Meeting for the Eighth Congress, 7/ on the basis of previous work accomplished by several non-governmental organizations. 8/ The Principles confirm certain fundamental

prisoners' rights and stipulate, inter alia, that all prisoners should be treated with due respect to their inherent dignity and value as human beings, without discrimination of any kind. Except for the necessary limitation of the freedom of movement, all prisoners should be afforded the human rights and fundamental freedoms, as set out in universally recognized international instruments. By declaring those rights, the Principles complement the provisions of the Standard Minimum Rules for the Treatment of Prisoners. Thus they may be of particular interest to the Sub-Commission and its Working Group on Detention.

(e) Standard Minimum Rules for Non-Custodial Measures

37. This instrument is the result of a long and intensive debate which was initiated by the Seventh Congress. Its elaboration started at the United Nations Asia and Far East Institute for the prevention of Crime and the Treatment of Offenders (UNAFEI), Fuchu, Tokyo. 9/ The Rules were extensively discussed by experts at the interregional preparatory meeting for the Eighth Congress on topic II 10/ and by the Committee on Crime Prevention and Control 11/ as well as by the International Penal and Penitentiary Foundation. On the recommendation of the Eighth Congress, the General Assembly adopted them in its resolution 45/110.

38. The Rules form a set of recommendations representing a balanced approach, taking into account the views and experiences of Governments, legal scholars, experts in the field and practitioners. They emphasize that imprisonment should be considered as a last resort and encourage the promotion of non-custodial measures, with due regard to an equilibrium between the rights of individual offenders, the rights of the victims and the concern of society. The Rules set forth a wide range of non-custodial measures at various stages of criminal procedures. They also contain rules on implementation of non-custodial measures, staff recruitment and training, involvement of the public at large and of volunteers, research, planning, policy formulation and evaluation, thus providing a comprehensive set of guidelines to enhance alternative measures to imprisonment. One of the fundamental concepts of the Rules is the consideration that non-custodial measures, in view of restrictions imposed on certain human rights, should provide basic guarantees to the offender or be supervised by the judicial authority or any other appropriate body.

(f) Model Treaty on the Transfer of Supervision of Offenders Conditionally Sentenced or Conditionally Released

39. The Model Treaty was adopted by the General Assembly in its resolution 45/119, also on the recommendation of the Eighth Congress. It was elaborated by the Committee on Crime Prevention and Control, the regional preparatory meetings for the Eighth Congress and the International Expert Meeting on the United Nations and Law Enforcement, held at Baden, Austria. 12/ Its purpose is to provide States with a framework to allow offenders on probation, parole or under suspended sentence to return to their home country or move to another country, by transferring responsibility for supervision and applying the terms of non-custodial measures. Two basic concepts motivated and supported the development of the Model Treaty: first, the possibility of the transfer of supervision of offenders who have been

conditionally sentenced or conditionally released might contribute to an increase in the use of alternatives to imprisonment also with respect to foreign prisoners; and second, supervision in the offender's home country rather than the enforcement of the sentence in a country where the offender has no roots is expected to contribute to an earlier and better reintegration into society.

(g) Guidelines for the Prevention of Juvenile Delinquency

40. These Guidelines, adopted by the General Assembly in its resolution 45/112, on the recommendation of the Eighth Congress, were first elaborated at a meeting held by the Arab Security Studies and Training Centre (ASSTC) in Riyadh and thus designated as the Riyadh Guidelines. They set forth standards for the prevention of juvenile delinquency, including measures for the protection of young persons who are abandoned, neglected, abused or in marginal circumstances, in other words, at "social risk". The Guidelines cover the pre-conflict stage, i.e. before juveniles come into conflict with the law. They have a "child-centred" orientation and are based on the premise that it is necessary to offset those conditions which adversely influence and impinge on the healthy development of the child. To this end comprehensive, multidisciplinary measures are suggested in order to ensure to the young a life free from crime, victimization and conflict with law. The Guidelines focus on early preventive and protective intervention modalities and aim at promoting a positive role on the part of various social agencies, including the family, the educational system, the mass media and the community, as well as the young persons themselves, in a concerted effort.

(h) Rules for the Protection of Juveniles Deprived of their Liberty

41. The Rules were adopted by the General Assembly in its resolution 45/113, on the recommendation of the Eighth Congress. They were elaborated by the Committee on Crime Prevention and Control, in close cooperation with several intergovernmental and non-governmental organizations, such as Defence for Children International. They advocate the least possible use of deprivation of liberty, especially in prison and other closed institutions. The Rules provide specific principles which apply to all juveniles held in any form of detention, and in any type of facility. They call for the separation of juveniles from adults in detention and the classification of juveniles according to their sex, age, personality and offence type, with a view to ensuring their protection from harmful influences and risk situations. They set forth special provisions covering various aspects of institutional life, such as physical environment and accommodation, education, recreation, religion, medical care, contacts with the outside world, inspection, complaints and return to the community.

42. This instrument, together with the above-mentioned Guidelines for the Prevention of Juvenile Delinquency, complements the Standard Minimum Rules for the Administration of Juvenile Justice. Both are intrinsically related to the Convention on the Rights of the Child, particularly its articles 37 and 40. The Rules may also be taken into account by Mrs. Mary Concepción Bautista in the preparation of her report on the application of international standards

concerning the human rights of detained juveniles, in accordance with Sub-Commission resolution 1990/21. They may further be of interest to the Sub-Commission's Special Rapporteur on human rights and youth, Mr. Dimitru Mazilu, in updating his report on the subject, in pursuance of Sub-Commission resolution 1990/32.

43. The attention of the Sub-Commission is drawn especially to paragraphs 10 and 12 of General Assembly resolutions 45/112 and 45/113, respectively, in which the Assembly invited the Sub-Commission to consider these two new international instruments, with a view to promoting the application of their provisions.

3. New mandates and priorities

44. As in the past, the Eighth Congress provided policy guidelines for further standard-setting in priority areas, in conformity with proposals made by Governments at the preparatory meetings and by members of the Committee on Crime Prevention and Control at its ninth, tenth and eleventh sessions. The following areas were identified for the possible elaboration of new guidelines. In most of them preliminary work has already started.

(a) Pre-trial detention

45. The Congress, in a specific resolution, called upon the Committee on Crime Prevention and Control to examine this question and to submit proposals for further action to the Ninth Congress in 1995 and its preparatory meetings. This mandate may be of special interest to the Sub-Commission's Working Group on Detention and the Working Group on Arbitrary Detention of the Commission on Human Rights, established in accordance with its resolution 1991/42. The attention of these working groups is also drawn to the issues discussed below.

(b) HIV/AIDS in prison

46. Drawing on a study jointly prepared by WHO and the Crime Prevention and Criminal Justice Branch of UNOV/CSDHA, entitled "HIV/AIDS in Prison", the Eighth Congress adopted a resolution on this subject, which may be of particular relevance to the Sub-Commission and Mr. Louis Varela Quiros, its Special Rapporteur on a related subject, in the pursuance of his task, in accordance with Sub-Commission decision 1990/118. By this resolution, the Congress requested the Secretary-General, in collaboration with the regional institutes for crime prevention and control and with the World Health Organization, (a) to assist the prison administration, at the request of Member States concerned, in the development of national AIDS prevention and control programmes for the prison population, and to promote the international exchange of information in this area; (b) to encourage, as an integral part of the increased emphasis on prison education programmes, international cooperation in the elaboration and exchange of education materials designed to prevent further spread of HIV infection in prison; (c) to undertake the elaboration of guidelines for the institutional and clinical management of HIV-infected prisoners and those with AIDS.

(c) Assessment for the release of life sentence prisoners

47. The Eighth Congress further requested the Committee on Crime Prevention and Control to examine the legal position as to the rights and duties of prisoners serving life sentences and the various systems for reviewing their suitability for conditional release. The Committee was also requested to give special consideration to assessment procedures and decision-making in cases of life sentences and to examine the need for life sentence.

(d) Prison management and community-based sanctions

48. In a resolution on "International and interregional cooperation in prison management and community-based sanctions and other matters", the Eighth Congress, inter alia, invited Member States to further strengthen their collaboration in these areas, with special emphasis on custodial and non-custodial treatment of offenders; work, education, leisure and family visits; drugs; health care; and juvenile offenders.

(e) Protection of human rights of victims of crime and abuse of power

49. In this area, the Eighth Congress adopted a resolution requesting the Secretary-General, inter alia, to make appropriate provisions to study the feasibility of establishing an international fund, within the framework of the United Nations crime prevention and criminal justice programme, for the compensation of, and assistance to, victims of transnational crimes and for the promotion of international research, data collection and dissemination and the establishment of policy guidelines in this respect. The Secretary-General was further requested to distribute widely the Guide for Practitioners on the Basic Principles of Justice for Victims of Crime and Abuse of Power 13/ and the Measures for Implementation of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power. 14/

50. This resolution may be of special interest to the Sub-Commission and its Rapporteur, Mr. Theo van Boven, in considering his progress report on compensation for victims of gross violations of human rights, prepared in accordance with Sub-Commission resolution 1990/6. As may be recalled, this resolution requested the Rapporteur to take into account, in the prepration of his report, whatever relevant decisions might be adopted by the Eighth Congress, and for this purpose to undertake the necessary consultations with CSDHA.

(f) Future procedures for evaluating implementation of standards

51. The Eighth Congress requested the Secretary-General, subject to the provision of extrabudgetary funds, to convene an ad hoc group of experts, charged with the task of submitting concrete proposals to the Committee on Crime Prevention and Control at its twelfth session for (a) promoting the implementation of existing standards; (b) consolidating and rationalizing arrangements for the effective evaluation and monitoring of the implementation of United Nations norms and guidelines in the field of criminal justice; and (c) improving the techniques to evaluate such implementation.

52. The Home Office of the United Kingdom has generously offered to organize and fund such a meeting, which would be held at the Vienna International Centre from 14 to 16 October 1991, in cooperation with UNOV/CSDHA. Invitations to attend this meeting would also be extended to the human rights programme, whose active participation would make an essential contribution to its success.

(g) Activities of the International Committee of the Red Cross with regard to detention

53. Aware of the fact that the International Committee of the Red Cross by its work can make a complementary and pragmatic contribution to the implementation of rules and standards for the treatment of detainees, the Eighth Congress invited the Secretary-General to establish and maintain regular contacts with this Organization, with a view to sharing, whenever possible, its experiences relating to the treatment of detainees within the framework of its specific mandates.

4. Implementation reports submitted

(a) Standard Minimum Rules for the Treatment of Prisoners

54. The Congress had before it for its consideration the fifth quinquennial report of the Secretary-General on the implementation of these Rules (A/CONF.44/11), prepared in pursuance of Economic and Social Council resolutions 663 C I (XXIV) and 1984/47. The report is based on replies to a survey received from 46 Governments and several United Nations institutes in crime prevention and criminal justice as well as non-governmental organizations concerned. In the preparation of the report, special emphasis had been placed, inter alia, on the status of prisoners, prison work, and educational and vocational training, in accordance with recommendations 10 and 17 of the Seventh Congress. Further, as proposed by the Interregional Preparatory Meeting for the Eighth Congress on Topic 2: "Criminal justice policies in relation to problems of imprisonment, other penal sanctions and alternative measures" in its resolutions I, II and in paragraph 51 of its report (A/CONF.144/IPM.4), due attention had also been given to practical strategies aimed at improving prison conditions and the technical means of reducing overcrowding.

55. The report stressed that the Rules remained a fundamentally important statement of human principles, which should be common to all countries and cultures and applied as far as possible in all situations. The results of the survey had in some respects been reassuring. The strong support for the Rules, which had been expressed in the replies of all the States, and the care and effort that had clearly been devoted to the preparation of the replies, demonstrated a high level of commitment to the objectives of the Rules. Furthermore, some progress had been noticeable concerning exercise and sport, medical services, classification and individualization, as well as social relations and after-care. Despite these positive features, however, there were still serious grounds for concern, especially the relatively low rate of replies by Member States and the difficulty of measuring progress between the quinquennial surveys, including the possibility that the Governments'

perceptions of their performance in implementing the Rules may not be shared by other observers and that some of those completing the replies may be using slightly different criteria from the others.

56. As in the past, the survey was carried out on the understanding that many provisions of the rules are likewise applicable to persons arrested or imprisoned without charge, in accordance with Rule 95. In view of this, the report might be of special interest to the Sub-Commission and its Working Group on Detention.

(b) Code of Conduct for Law Enforcement Officials

57. The Congress also considered a report of the Secretary-General on the implementation of the Code (E/AC.57/1988/8 and Add.1/Rev.1 and Add.2), prepared in pursuance of Economic and Social Council resolution 1986/10, section IX. This report updates the previous report on the subject, presented to the Seventh Congress in document A/CONF.121/12, and is thus based on the replies of a total of 79 States to two surveys, conducted in 1984-1985 and 1987-1988. It focuses on the relevance and application of the Code, safeguards against its violation and restraints on the use of force and firearms by law enforcement officials. The report, as well as the Code and the new guidelines for its effective implementation (ECOSOC resolution 1989/61), may also be used as background documents at workshops and other meetings on issues pertinent to the Code, to be organized by Governments, with the assistance of the Secretary-General, in response to Commission on Human Rights resolution 1991/50. In this connection, intensified work between Geneva and Vienna may be required, in cooperation with interested Governments and interregional and regional institutes in the area of crime prevention, criminal justice and human rights.

(c) Basic Principles on the Independence of the Judiciary

58. The Congress further had before it a report of the Secretary-General on the implementation of the Principles (A/CONF.144/9), prepared in pursuance of Economic and Social Council resolution 1986/10, section V, and based on replies to a survey received from 71 States and several United Nations institutes and non-governmental organizations concerned. The report was prepared in accordance with the new procedures for the effective implementation of the Principles (ECOSOC resolution 1989/60). It pays special attention to the dissemination of the Principles, the problems faced in their implementation, the qualifications and status of judges and suggestions for the future implementation of the Principles, including the role of the United Nations in this regard. The Sub-Commission may have a particular interest in this report which complements the work being undertaken in this field by its Special Rapporteur Mr. Louis Joinet, in accordance with Commission on Human Rights resolution 1991/39.

(a) Standard Minimum Rules for the Administration of Juvenile Justice

59. In addition, the Congress considered a report of the Secretary-General on the implementation of the Standard Minimum Rules for the Administration of Juvenile Justice (A/CONF.144/4), prepared in pursuance of General Assembly resolution 40/33 and Economic and Social Council resolution 1989/66. The

report contains information received from 50 Governments as well as United Nations offices, United Nations institutes and intergovernmental and non-governmental organizations concerned. It highlights the reforms and changes brought about by the Rules in juvenile justice systems all over the world. This report may be of particular interest to the newly-established Committee under the Convention on the Rights of the Child.

(e) Safeguards Guaranteeing the Protection of the Rights of Those Facing the Death Penalty

60. The Congress also considered a report of the Secretary-General on the implementation of the Safeguards (E/AC.57/1988/9 and Corr.2), prepared in accordance with Economic and Social Council resolution 1986/10, section X. The report, which is based on the replies to a survey received from 74 countries, reviews the status of the implementation of the Safeguards, including ways and means of their dissemination in Member States.

(f) Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power

61. Finally, the Congress had before it a report of the Secretary-General on the implementation of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (E/AC.57/1988/3), prepared in pursuance of Economic and Social Council resolution 1986/10, section III, and based on the replies of 21 Member States to a United Nations survey. A subsequent report on the Declaration (document A/AC.57/1990/3), originally submitted to the eleventh session of the Committee on Crime Prevention and Control in February 1990, was also considered by the Congress. These two reports summarize the work carried out so far in implementing the Declaration and outline priority areas for further action, including the development of international means of recourse where national channels may be insufficient, and the elaboration of more detailed provisions for victims of abuse of power.

5. Debate on capital punishment

62. The Eighth Congress further had before it for its consideration the report of the Secretary-General on capital punishment (E/1990/38/Rev.1), containing the results of the fourth quinquennial survey called for by Council resolution 1745 (LIV) and prepared mainly on the basis of information received from 43 Member States for the period 1984-1988.

63. In view of the small number of Member States that replied, the conclusions of the survey could only partially reflect regional or global situations. It was pointed out, however, that there was a significant trend towards abolition (11 countries have abolished capital punishment since 1984), as well as a clear need to distinguish between sporadic popular support for capital punishment and well-informed opinion, since the former was often a spontaneous reaction to certain forms of crime. Further efforts should be made to devise educational measures to emphasize respect for human life while stressing research findings on erroneous perceptions about the deterrent

effect of capital punishment. In order to provide a more complete picture, the Congress had before it also a report, prepared in 1988 by Roger Hood, published as a special issue of the International Review of Criminal Policy.

64. The representative of Italy introduced a draft resolution (A/CONF.144/C.2/L.7), entitled "Death penalty", which, inter alia, would have invited States which have not abolished capital punishment to consider the possibility of establishing, within the framework of their national legislations, a moratorium in its application, at least on a three-year basis, or creating other conditions under which capital punishment would not be imposed or executed, so as to permit a study of the effects of abolition on a provisional basis.

65. While the Congress had adopted all other resolutions by consensus, a vote was taken on the draft resolution on the death penalty. It was rejected by a roll-call vote of 48 in favour to 29 against, with 16 abstentions, not having received the two-thirds majority vote required under the rules of procedure. 15/

D. Extra-legal executions

66. Further to the adoption by the Economic and Social Council in its resolution 1989/65 of the "Principles on the Effective Investigation and Prevention of Extra-Legal, Arbitrary and Summary Executions", as endorsed by the General Assembly in resolution 44/162, a Manual on this subject has been recently issued, as a technical publication under the 1990-1991 programme budget. 16/ It includes an overview of United Nations and other intergovernmental and non-governmental human rights and criminal justice action on the above question. It further contains a set of Principles and a number of legal and forensic protocols developed as a technical advice by the Minnesota Lawyers International Human Rights Committee, with a view to facilitating the investigation and prevention of such executions. The Manual may be of special interest to the Sub-Commission as well as to the Commission on Human Rights and its Special Rapporteur on Summary or Arbitrary Executions, Mr. Amos Wako, in his work in pursuance of Commission on Human Rights resolution 1991/71.

E. Twelfth session of the Committee on Crime Prevention and Control

67. Work is being undertaken in preparation for the Committee, which is scheduled to hold its next session at Vienna from 10 to 19 February 1992, immediately preceded by an open-ended Pre-sessional Working Group on Implementation of United Nations Standards and Norms in Crime Prevention and Criminal Justice, on 6 and 7 February 1992. Following past practice, it would be important that the human rights programme would be represented at the Working Group and the Committee, as many items on its provisional agenda are closely related to human rights matters, including item 4 on crime prevention and criminal justice standards and norms; item 7 on juvenile justice; item 8 on functioning and programme of work of the United Nations in crime prevention and criminal justice; item 9 on implementation of the conclusions and recommendations of the Eighth Congress; and item 10 on preparations for the Ninth Congress.

CONCLUSIONS

68. Experience with norms and guidelines in crime prevention, criminal justice and human rights at United Nations congresses has shown that extensive work is required to achieve and implement universally acceptable results. Much has been done, in a comparatively limited period of time, in close cooperation with the human rights programme, particularly in standard-setting, but much more remains to be done, especially in implementation.

69. The United Nations standards and guidelines form a set of principles that reflect the "conscience" of the international community. The successful evolution of the United Nations standard-setting and implementation programme in the area of administration of justice and human rights requires existing problems to be acknowledged and more effective technical cooperation and advisory services. The provision of resources is also needed for the participation of the Chairperson of the Committee on Crime Prevention and Control in the work of the human rights bodies and for intensified consultations between Geneva and Vienna.

70. These problems cannot be considered in isolation. They are similar to those which have been examined in the Manual on Human Rights Reporting 17/ as well as in a comprehensive report on effective implementation of international instruments on human rights, including reporting obligations under international instruments and human rights, 18/ which was submitted to the General Assembly (A/44/668) and the Commission on Human Rights, in which the contributions of the Committee on Crime Prevention and Control and of the congresses are duly acknowledged. 19/ While not all the recommendations may be applicable to crime prevention and criminal justice, in view of the special functions of the human rights treaty bodies as well as the nature of the reporting obligations, there are many which, mutatis mutandis, could be valid.

71. The attention of the Sub-Commission is also drawn to the study on promotion, protection and restoration of human rights at the national, regional and international level (E/CN.4/Sub.2/1988/33). 20/ It contains recommendations on mechanisms by which individuals might seek international judicial review of alleged human rights violation, once domestic remedies have been exhausted. 21/

72. There would be an important role in the implementation process for the crime and justice information network, which should be strengthened. Considering the rapidly increasing workload of UNOV/CSDHA in the implementation of standards, the entire reporting and monitoring systems need to be rationalized and computerized, with a view to enhancing efficiency and facilitating reporting by Member States, as well as the analysis of their reports.

73. Non-governmental organizations have a vital part to play in implementation, which should be further pursued. They are an important source of information on the situation existing at the grass-root level in various countries. They also provide an added perspective from the viewpoint of the "customer" and the wider public. They could contribute to the interpretation of the surveys' results, help to disseminate reports, and promote wider awareness and understanding.

74. Last, but not least, education and the dissemination of legal information constitute prerequisites for effective implementation. The study of United Nations instruments in crime prevention, criminal justice and human rights through the school and university systems, educational and cultural institutions and public organizations, including the mass media, would enable citizens, especially young people, to defend their rights and freedoms and also to have a better understanding of the interests of the community and their role and duties as its members. 22/

75. It should always be appreciated that the protection of human rights implies the preservation of basic liberties that all persons should be allowed to enjoy. An effective and humane justice system is vital to freedom, safety and the right to live in peace. While Governments will have to join forces to fight escalating crime by continuing to strengthen their defences and resources, and by improving their preventive and control measures, they should also reassert the fundamental values enshrined in international instruments.

Notes

1/ A/CONF.144/IPM.5.

2/ E/AC.57/1988/8.

3/ Report of the International Expert Meeting on United Nations and Law Enforcement: The Role of Criminal Justice and Law Enforcement Agencies in the Maintenance of Public Safety and Social Peace, Baden, Austria, 16-19 November 1987.

4/ E/AC.57/1988/15.

5/ E/CN.4/Sub.2/L.731, E/CN.4/Sub.2/481 and Add.1, E/CN.4/Sub.2/1982/23 and E/CN.4/Sub.2/1985/18 and Add.1-6.

6/ E/CN.4/Sub.2/1990/35.

7/ A/CONF.144/RPM.3.

8/ E/AC.57/1988/NGO.3.

9/ UNAFEI Resource Material Series No. 32, 1987, p. 179 and No. 34, 1988, p. 195.

10/ A/CONF.144/IPM.4.

11/ E/AC.57/1990/8.

12/ Supra, note 3.

13/ A/CONF.144/20, annex.

14/ E/AC.57/1988/NGO/1.

15/ A/CONF.144/28, paras. 356 and 357.

16/ ST/CSDHA/12.

17/ United Nations Publication, Sales No. E.91.XIV.1.

18/ Prepared by Philip Alston, Professor of International Law and Director of the Centre for Advanced Legal Studies at the Australian National University.

19/ See, in particular, paragraphs 37 and 143.

20/ Prepared by Erica-Irene Daes, Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities.

21/ See, in particular, paragraph 514 of the report.

22/ See Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Caracas, 25 August-5 September 1980: report prepared by the Secretariat (United Nations publication, Sales No. E.81.IV.4), chap. I, sect. B.